

**Town of Milford
Zoning Board of Adjustment Minutes
June 19, 2014
Case #2014-10
Patrick Boucher
Special Exception**

Present: Zach Tripp, Chairman
Laura Horning, Vice Chair
Fletcher Seagroves
Michael Thornton
Joan Dargie
Len Harten

Katharine Bauer, Board of Selectmen Representative

Excused:

Secretary: Peg Ouellette

The applicant, Patrick Boucher, owner of Map 37, Lot 92 located at 15 Iris Rd in the Residence A District, is requesting a Special Exception from Article V, Section 5.02.2:A.8 to construct a 10' by 18' shed eight (8') ft from the side property line where fifteen (15') is required.

Minutes approved on July 17, 2014

Z Tripp, Chairman, opened the meeting by stating that the hearings are held in accordance with the Town of Milford Zoning Ordinance and the applicable New Hampshire Statutes. He continued by informing all of the procedures and introduced the Board. He read the notice of hearing into the record. The list of abutters was read.

Applicant's presentation:

P. Boucher said he was applying for a variance and spoke to his neighbors who were fine with where the shed would be. It will be 8 ft from the property line instead of the 15 ft required, used to store lawn equipment, generators, snow blowing equipment, etc. It will be easier access to front and back yards and is 2 ft back from the property line and 2 ft back from the existing fence. We have a dog we want to keep in the yard. It will be more than 30 ft to the road and the driveway is 11 ft wide. Due to location of gas and water lines we got an estimate of cost to move those, which was very high and was concerned about rupturing those lines. The question was, why not in the back yard? They have a garden and patio and a lot of trees there. Cost-wise the proposed location made more sense and want to put the shed where there is pavement and gravel drive where the previous owners used to park.

Z. Tripp, referring to the sketch, asked if the pavement, gravel was all the way to the back and whether the shed was already there.

P. Boucher said yes it did- 2 ft. and remaining 16 ft, and the shed there was temporary and will be removed. To get in the back he would have to have neighbor's permission to get to the back yard.

Z. Tripp said it appeared the new proposed one is closer to the house.

P. Boucher said yes, it will be hugging the drive. Where the house is, 3 ft in on the drive is where the water lines are. He didn't know if the line went straight up and over. He wasn't sure if the gas line was there. With the incline of the drive, would have to dig down deep.

Z. Tripp asked if they were making or buying the shed.

P. Boucher said it would be bought.

L. Harten asked if that was a shed in the left rear.

P. Boucher said that is what collapsed and has been removed.

M. Thornton asked if the tree next to the blue truck in the aerial view would be removed.

P. Boucher said no. Where the fence line was, there was a tree that would have been an issue but they lost it two years ago.

F. Seagroves clarified that the applicant said "variance" but it is an application for Special Exception.

Z. Tripp asked, if the shed in the back aerial view had collapsed, why not put it there?

P. Boucher said it is much too large, with the amount of garden there. He was looking at liability with the neighbors. He didn't know which way the trees would go when the winds blow. The one in front would be for tools and power equipment and everything else, push mower and snow blower will be in back.

Z. Tripp asked for any other questions from the Board. There were none. He opened the meeting for public comment. There was none. He closed the public comment portion of the meeting and then read an e-mail received from Maria Schweizer the owner of 18 Cypress Rd Map 37 Lot 107 stating she had no issue with putting the shed on the property.

No other correspondence was received regarding this case.

Applicant read the application into the record, going over the required criteria.

Description of proposed use:

To permit a 10 x 18 shed 8 feet from side property line.

1. The proposed use shall be similar to those permitted in the district:

Residential use for lawn equipment, there are many in the neighborhood.

2. The specific site is an appropriate location for the proposed use because:

It will give access to front and back yard, going to be 2 ft. behind the fence to keep dog on property and more than 30 feet from front.

3. The use as developed will not adversely affect the adjacent area because:

Just a shed, store my personal things and make property look nicer.

4. There will be no nuisance or serious hazard to vehicles or pedestrians:

On private property, not close to the street or driveway and off to side of driveway.

5. Adequate appropriate facilities will be provided for the proper operation of the proposed use because:

Build to code.

The board proceeded to discuss whether the application met all the requirements.

A. The proposed use shall be similar to those permitted in the district:

L. Harten didn't have a problem with that question. There are other sheds in the district and use would be similar.

J. Dargie said the proposed use was similar to those permitted in the district.

M. Thornton said the large size of the shed limited applicant to one location. He saw trees in the back yard and what looked like equipment. It would be neater with a shed. The applicant can't move it further away from the property line. He asked how far off the gas and water lines? Applicant said he didn't know where those were. He didn't contact Dig Safe. He was going to contact Dig Safe after they had a contractor come over. He assumed the water lines went up the driveway, with 8 ft. from the right side to the water line. He had no idea where the gas lines were. His concern was not disturbing those lines. M. Thornton suggesting finding out fairly soon since that may change his plans.

F. Seagroves said proposed use was similar to those permitted in the district. There are a lot of sheds in the area.

Z. Tripp agreed with rest of the Board. It is a common use.

B. The specific site is an appropriate location for the proposed use:

F. Seagroves said, as stated, it was one of the areas where it would not get damaged. If it was for a snow blower, you wouldn't want it at the back of the property and have to try to get to it after a storm.

L. Harten said considering what was in the back yard with multiple trees, and echoing F. Seagroves' comment, the back was probably not a good location.

M. Thornton said it was about the only appropriate location for a shed that size. He asked whether there were two sheds before. P. Boucher said only one, which collapsed. They purchased a new one and the collapsed one was removed. They purchased one at a reasonable price which will be moved in the back. M. Thornton referred to a white structure near the truck. P. Boucher said that was the deck and screen house; that was the roof of the screen house.

Z. Tripp had a little trouble with this. Purpose of setbacks was to prevent congestion. It was fairly close to the property line. Everyone has sheds but none in the front yard. He understood it would be back and over further but was concerned that in that location on this lot it would frustrate the purpose of the setback, where maybe in the back somewhere, at least one side of the property is fenced, you could get that boundary if the shed was against the fence so no one would see it. He struggled with it being in front of the house. Sec. 5.02.5.c for Residence A does call a reduced setback for a smaller building, 120 SF, and roadside 160 SF, or 16 x10. Regarding appropriate location, he was not sure. They did have a back yard; most of the neighbors put sheds in the back yard and have sort of the same constraints. He asked about the possibility of moving it more to the rear and having 10 x 12 on the front. P. Boucher said it was possible but didn't want to run into the deck stairs. His mother is getting up in age and they want easy access. It was possible to go back another four feet.

Z. Tripp asked other Board members for their thoughts. L. Harten asked about going back another six feet. P. Boucher said he would run into the staircase, where the deck, fence and gardens are, he would have to take those out. Z. Tripp understood his concern with gas and water lines, but was trying to balance it with crowding the front property line. After comments from F. Seagroves and Z. Tripp about measurements applicant agreed he could move it back an additional 2 ft and not have to move the stair and deck.

J. Dargie asked if it would go 2 ft beyond the fence; if so, the drawing showed 20 ft.

P. Boucher said he didn't draw to scale.

J. Dargie asked if it was 10 ft wide? P. Boucher said it was 2 ft wide so moving back an additional two squares would move them 4 ft back and it would be 12 ft in the front.

C. The use developed will not adversely affect the adjacent area:

J. Dargie said it was a shed and would look nicer. Only affect to adjacent area was probably in that spot in front of the house.

M. Thornton said he didn't see a more appropriate location. If it could be moved to the rear without loss of convenient access to the deck it would be more appropriate. He didn't see any other sheds in the area in the front yard that close to the street. To mitigate that as much as possible would probably be a good idea.

F. Seagroves didn't see any effect on the adjacent area.

L. Harten said as it stood, was shed going to the fence or beyond? He referred to a squiggly line.

P. Boucher said that was the original fence; with proposed shed going in a portion of that fence would go out and shed will be another four ft back from that fence. L. Harten asked, as it was in the drawing it was 2 ft. beyond the fence? Applicant said yes. L. Harten said, as discussed he will have it back 4 ft. Applicant agreed. L. Harten didn't believe it would affect that adjacent area. Shed was purchased and he couldn't imagine he would purchase something that would detract. Applicant said there were some portable sheds in the neighborhood, but this was a good quality shed.

L. Harten asked if it would be a slab or posts supporting it. Applicant said it came with a floor so it would be put in gravel and leveling it and dropping it. L. Harten said he didn't believe it would adversely affect the area.

Z. Tripp said his answer was tied to the previous question. Didn't think this particular shed would adversely affect the area; if everyone else on the street starting putting sheds in the front, you would start seeing congestion. Putting it back 2 ft was a good compromise.

D. There will be no nuisance or serious hazard to vehicles or pedestrians:

M. Thornton didn't see any hazard to pedestrians or vehicles. It was far enough back from the street that someone would have to be impaired or trying to hit the shed.

J. Dargie didn't see nuisance or serious hazard to pedestrians or vehicles

L. Harten agreed.

F. Seagroves didn't see any.

Z. Tripp agreed with the Board. It was far enough off the driveway and left clearance for emergency vehicles and guests. He said applicant was aware of the gas and water lines and would signal where those were.

E. Adequate appropriate facilities will be provided for the proper operation of the proposed use:

L. Harten assumed the Building and Planning people would be there at some point to be sure appropriate facilities were there. He asked whether there would be electric power in the shed. Applicant said there would not. L. Harten said adequate facilities would be provided.

F. Seagroves said the only concern was the water and gas lines; applicant would not want to have to move those.

M. Thornton said applicant would want to check to see if there was an easement for the water and gas lines into which he could not infringe. If not, then adequate facilities would be provided.

J. Dargie agreed, because it would be built to code.

Z. Tripp agreed. Applicant had testified it was a purchased shed. He assumed the shed had been through a certain level of engineering and applicant is going through the office for proper permitting. There won't be any power and they already discussed the water and gas lines.

L. Harten asked the Chair about placing a condition to indicate it would be moved back 2 ft.

Z. Tripp agreed that would probably be necessary and asked L. Harten to propose a condition.

L. Harten proposed a condition that the shed would be moved back an additional 2 ft. from the proposed diagram.

J. Dargie seconded.

All voted in favor.

The Board proceeded to vote on the criteria.

Is a special exception allowed by the ordinance?

F. Seagroves – yes; L. Harten – yes; J. Dargie – yes; M. Thornton – yes; Z. Tripp – yes

Are the specified conditions present under which a special exception may be granted?

J. Dargie – yes; M. Thornton – yes; L. Harten – yes; F. Seagroves – yes; Z. Tripp - yes

Z. Tripp asked for a motion to approve the application.

M. Thornton made a motion to approve Case #2014-10

J. Dargie seconded the motion to approve Case #2014-10.

Final Vote:

M. Thornton – yes; J. Dargie – yes; L. Harten – yes; F. Seagroves – yes; Z. Tripp – yes.

Case #2014-10 was approved by unanimous vote.

Z. Tripp informed applicant he had been approved and reminded the applicant of the 30 day appeal period.